CHAPTER 6:

# Change in Square Footage—Expansion and Reduction

# Overview

Changing agency initiatives can result in client agencies requesting that the General Services Administration (GSA) expand or reduce space under a lease. When these changes occur during the course of a lease and when it is impractical to wait until the expiration or end of the firm term, GSA will determine if a change in square footage project on behalf of one or more agencies is the correct solution.

A change in square footage project can be in the form of an increase or a decrease of space and must be initiated by the client agency through normal space acquisition processes.

This chapter guides the user through the process of changing square footage during the course of a lease. If a given subject matter is covered in detail elsewhere in this Leasing Desk Guide, the user is referred to that chapter or appendix for comprehensive instruction rather than repeating the information here.

In May 2012, OMB issued Memorandum M-12-12, entitled “Promoting Efficient Spending to Support Agency Operation,” to direct agencies to move aggressively to dispose of excess properties held by the Federal Government and make more efficient use of the Government's real estate assets.  In March 2013, OMB issued Management Procedures Memorandum No. 2013-02, entitled “Implementation of OMB Memorandum M-12-12 Section 3: Freeze the Footprint,” to clarify and to provide more detailed implementation guidance on the “Freeze the Footprint” policy.

In general, this policy requires agencies to first consider and pursue available co-location or consolidation opportunities to offset any growth in total office and warehouse space within the Government’s real estate inventory that will result in no net growth in the size of agencies’ overall real property inventory. GSA contributes to these goals through its “No Net New” policy, which encourages client agencies to reduce or consolidate their space holdings.

Specifically, GSA collaborates with customer agencies to ensure that they are aware of the no net new policy and have considered its requirements as they pertain to space actions. Executive agencies need to be aware that, by submitting their requirements document and signing an Occupancy Agreement, they have taken into consideration OMB’s implementation guidance to not increase the size of their overall civilian real estate inventory, and that increases in an agency's total square footage must be offset by reductions elsewhere. Leasing Specialists will defer to the agency requirements and assume that they have addressed the OMB requirements.

# Part 1: Expansions

# 1. When Is an Expansion Considered?

New or replacing space actions may be accomplished through a lease expansion project whenever appropriate space is available for lease in a location where GSA already leases space. Expansion requests typically come from an agency that has a mission-related need for additional space at a leased location. There may be cases where an expansion of an existing lease is warranted regardless of whether the requesting agency is already housed at the location. In other words, an expansion project is the expansion of an existing GSA lease with the lessor, not necessarily an expansion of space under an existing Occupancy Agreement (OA).

# 2. Determining the Scope of the Lease

Requests for expansion of space are handled differently depending on whether the expansion is within the scope of the lease or outside the scope of the lease.

An expansion is a modification of the lease contract. Whether an expansion is within the scope of a lease is a procurement-related issue. Contracting officers must consider whether expansion was within the scope of the competition that resulted in the award of the current contract. Factors to consider are:

- the extent of the change,
- the performance period,
- the difference in cost between the awarded lease and the lease as modified, and
- whether the expansion is of a nature which potential offerors would reasonably have anticipated.

For example, the expansion of a warehouse lease to provide for like warehouse space, or a laboratory lease to provide for like laboratory space, could be considered within the scope of the lease, if it otherwise meets the requirements of Section 3 of this chapter. The similarity of the use of the space and mission are factors that can be taken into consideration. However, the expansion of a basic office lease to provide for a technical laboratory space, warehouse, or even high-end office space such as a judge’s chambers may not be within the scope of the lease.

# 3. Assembling Project Management Team

The Leasing Specialist or project manager should assemble a project management team as shown below. Optional members will be based on the size and complexity of the project.

- Regional Office of Portfolio Management
- Regional Office of Leasing
- Regional Office of Facilities Management and Services Programs
- Office of Client Solutions
- Regional Counsel's office
- Space Planning (optional)
- Design and Construction (optional)

# 4. Expansions Within the Scope of the Lease

The Lease Contracting Officer may determine, without further review by the Office of Regional Counsel, that an expansion request is within the general scope of the lease when:

- The expansion request is made from the same agency component or sub-division of the same agency occupying the space under the existing lease;
- Personnel to be housed in the expansion space have a mission-related need to be co-located with the employees in the existing space;
- The expansion request is coterminous with the existing lease term;
- The expansion request is for a reasonable amount of space in comparison to the space currently under lease; and
- The expansion request is not received immediately after the award of the lease—generally a year after the award would be considered a reasonable amount of time. Please see the "Prospectus-Level Leases" Chapter of the Leasing Desk Guide for guidance on an expansion request that would push a below-prospectus lease beyond the prospectus threshold, or if an expansion request would cause a prospectus-level lease to exceed the parameters of the resolution.

Lease Contracting Officers must consult with the Office of Regional Counsel before determining that an expansion request is within the general scope of the lease if all of the criteria of this paragraph are not met.

## a. Agency Requirements

The client agency's requirements may come to GSA documented, totally conceptual, or somewhere in between. The Leasing Specialist must understand the agency's needs and must have received verification of the funding necessary for the changes as both are described in Chapter 1, Requirements Development, before issuing changes to the lessor. For expansions, the Leasing Specialist should especially consider the amount of time remaining until lease expiration. Significant tenant improvement costs amortized over a relatively short period of time drive up rental rates and overall occupancy costs. In such situations where significant tenant improvements are necessary, it may make sense to extend the term using a superseding lease. See Leasing Desk Guide Chapter 5.

## b. Competition

If the expansion space is within the general scope of the lease, the Leasing Specialist may acquire the space through negotiations with the lessor without a Justification for Other Than Full and Open Competition (Justification) (see GSAM 570.403). However, the Lease Contracting Officer must document the file with a written determination that the expansion is within the scope of the lease.

## c. Availability of Space

Expansion projects are initiated based on the premise that expansion space exists or can be constructed at the leased existing location and that it can satisfy the space need. The Leasing Specialist must explore potential space solutions as well as determine the proposed cost of the expansion space during an initial conversation with the lessor before initiating the project. Projected expansion rates must be used in the cost-benefit analysis discussed below.

## d. Market Research

The Leasing Specialist must assess the market value of the space, including the space being expanded as well as other leases in the building and in buildings of similar character in the immediate market vicinity.

## e. Documentation

The Leasing Desk Guide chapters Introduction: General Information, Lease Authorities, and Responsibilities and Chapter 2, New or Replacing Lease, part 1, describe the systems required for documenting lease actions (REXUS, G-REX, etc.).

PBS revises the existing OA to include the expansion space. Through the use of an incremental version of the Occupancy Agreement (OA) in the OA Tool, the rates of the existing and expansion space may be blended or, a separate OA for the expansion space may be created. Either way, the OA must continue to reflect the underlying lease contract.

## f. Funding

An expansion to an existing lease is considered a new occupancy and PBS' policy and practice is to require the lessor to provide the full tenant improvement (TI) allowance based on the client agency's tier. Tenant improvements above the agency's allowance are expected to be paid via an RWA. (See Pricing Desk Guide (PDG) Section 2.5.3, 4th Ed.) Whether the TIs are funded through the rent or by a Reimbursable Work Authorization (RWA), the Leasing Specialist must obtain a signed OA before awarding the expansion in the Lease Amendment (LA). The OA must clearly indicate both the anticipated costs and method of funding. Refer to PDG for relet space, second-generation space that already has TIs installed for a prior tenant, for determination of the TI allowance and lump-sum payment options.

## g. Negotiations

The Leasing Specialist must advise the lessor that, unless specifically excluded in the LA, requirements and terms and conditions (other than price) in the existing lease will also be in effect for the expansion space. These include technical requirements such as fire suppression systems, and services such as cleaning, electricity, and maintenance. The Leasing Specialist should advise the lessor to account for the cost of these requirements in its proposal.

In addition, negotiations should address adjustments to the real estate tax base and operating costs attributable to the expansion space.

## h. Award and Construction

At the conclusion of negotiations, once the lessor's proposal has been determined to be fair and reasonable based upon market prices for comparable space, the Leasing Specialist must update the agency's OA with the final negotiated costs. After the agency signs the OA, the Lease Contracting Officer must issue a Notice to Proceed to the lessor and schedule the design kickoff meeting with the agency's and lessor's teams as soon as practical to maintain the project's momentum.

The Leasing Specialist or the construction manager must actively manage the construction process either directly or indirectly through other resources to remain on schedule and within budget. Regularly scheduled construction inspections are critical, and the Leasing Specialist or construction manager must compare the work to the plans and specifications, the lease, and the LA  to verify compliance with the Government's requirements.

## i. Lease Copies and Post-Award Notifications

The Lease Contracting Officer must distribute the SLA and prepare post-award notifications as prescribed in the Leasing Desk Guide chapter 2, part 5, subparagraphs 5e and 5f.

## j. Commencement of Rent

Once GSA accepts the space as substantially complete and operationally functional, the rent must commence immediately unless otherwise stipulated in the SLA. Commencement activities include gathering as-built drawings, activating the lease, closing out the project, and other procedures described in Chapter 2, New or Replacing Lease, part 8.

# 5. Expansions Outside the Scope of the Lease

## a. Agency Requirements

After consultation with the Office of Regional Counsel, the Leasing Specialist may determine that acquisition of the expansion space needed is outside the general scope of the lease according to the criteria in the paragraph 2 , “Determining the Scope of the Lease,” of this chapter and part.

Notwithstanding that the expansion is not within the scope of the lease, if the agency has a mission-related need for the personnel to be co-located, or there are other justifiable reasons for the expansion,, the Leasing Specialist must follow the steps in subparagraphs b and c below to determine which alternative is more cost effective and obtain approval to consolidate at the existing location or at a new location.

## b. Market Survey and Cost-Benefit Analysis

The Leasing Specialist must conduct a market survey as described in Chapter 2, New or Replacing Lease, part 2 to determine the availability of suitable alternative locations. If alternative locations are available that can satisfy the total requirement, the Leasing Specialist must perform a cost-benefit analysis to determine if it is in the Government’s best interest to relocate. This analysis must follow the cost-benefit analysis procedures as outlined in Chapter 5, Succeeding Lease, Superseding Lease, and include the same factors, as appropriate. If the lease has cancellation rights include the cost of the unexpired portion of the **firm** lease term rather than the **full** lease term.

If the cost-benefit analysis supports an expansion, then the Leasing Specialist may proceed after preparing the documentation and approval of the Justification as described in subparagraph c below.

If the cost-benefit analysis does not support an expansion at the existing location, then the Leasing Specialist and the Regional Account Manager (RAM), as necessary, must advise the agency and obtain its approval to proceed with a replacement lease for the entire requirement. Therefore, even when expansion space is available and expansion could simplify the procurement, the Leasing Specialist must not assume that an expansion is the only option or best option.

## c. Justifications and Documentation

If the Leasing Specialist pursues the expansion alternative and the lease is below the simplified lease acquisition threshold (SLAT), then the lease file must include documentation that explains the lack of competition (GSAM 570.203-2b).

However, if the Leasing Specialist pursues an expansion and the lease is above the SLAT, then a Justification is required (GSAM 570.403).

The negotiation, award, design, construction, and commencement steps for out-of-scope expansions are the same as the steps for in-scope expansions discussed above.

Once the physical and financial viability of an expansion has been established, the Leasing Specialist must create the project in the appropriate system or systems and, if the expansion will be outside the scope of the lease, prepare the Justification.

# Part 2: Reductions

# 1. Background and Overview

- In May 2012, OMB issued Memorandum M-12-12, entitled “Promoting Efficient Spending to Support Agency Operation,” to direct agencies to move aggressively to dispose of excess properties held by the Federal Government, among other things, and make more efficient use of the Government's real estate assets.

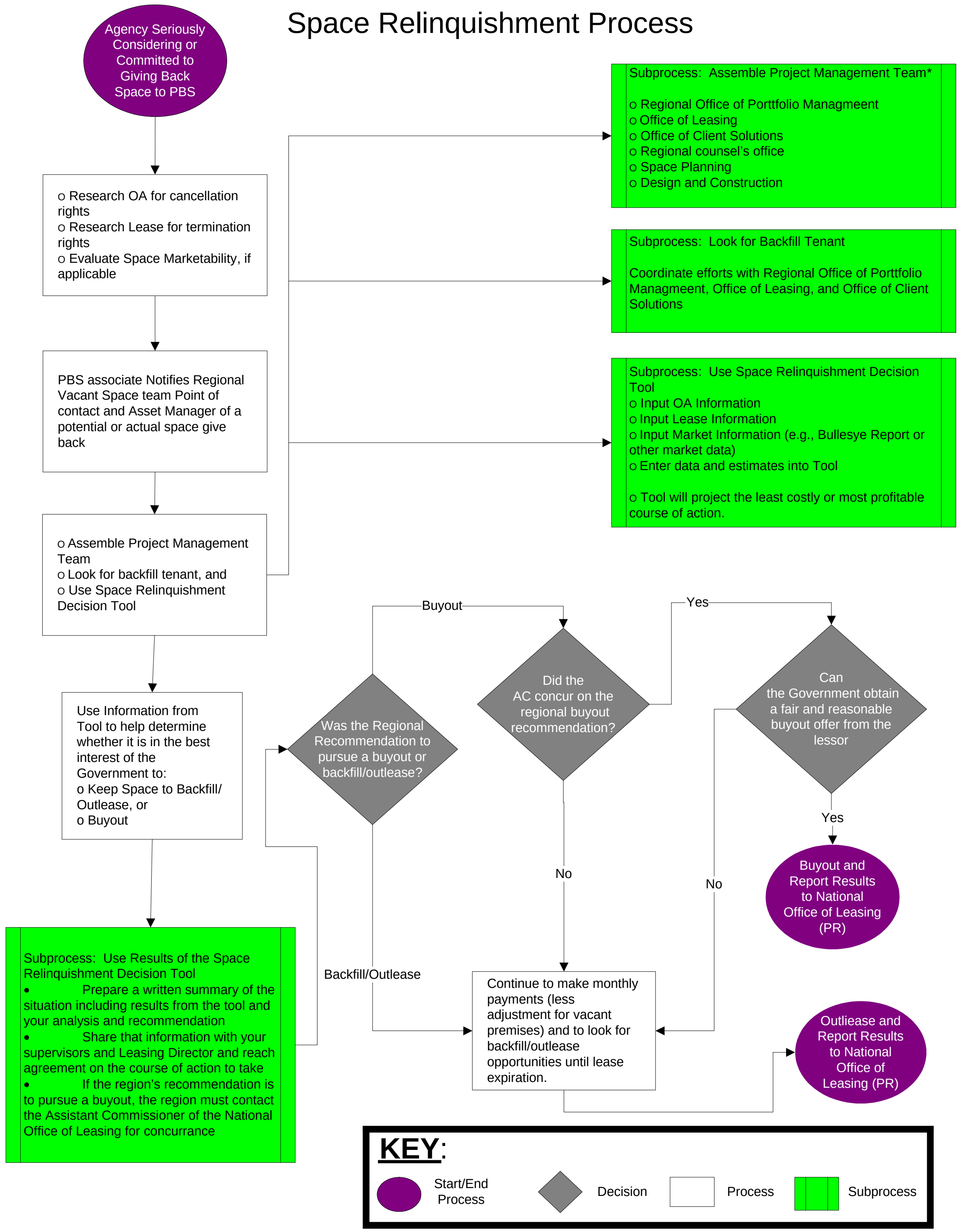
- In March 2013, OMB issued Management Procedures Memorandum No. 2013-02, entitled “Implementation of OMB Memorandum M-12-12 Section 3: Freeze the Footprint,” to clarify and to provide more detailed implementation guidance on the “Freeze the Footprint” policy.

- As part of its strategy to implement the “Freeze the Footprint” policy, GSA is issuing leasing guidance and tools to address space reductions (i.e., space relinquishments, early releases, and space give-backs) that occur in leased space prior to lease expiration.

In general, the steps to be taken when an agency has given GSA written notice of intent to relinquish space early, or when an early release of space is imminent, are as follows:

- Confirm whether the agency point of contact has the authority to make the change requested.
- Report the impending vacancy to the regional Point of Contact (POC) for the national Vacant Space Team, the Asset Manager and National Outlease Program Manager
- Review the OA and lease for cancellation and termination rights
- Evaluate the marketability of the space to be vacated and gather local rental market information
- Create an ad-hoc team with people from other business lines based on the expertise needed for your particular situation
- Use the Space Relinquishment Decision tool to estimate financial outcomes of backfill, outlease and buyout
- Prepare a written summary of the situation including results from the tool and your analysis and recommendation
- Share that information with your supervisors and Leasing Director and reach agreement on the course of action to take
- If the recommendation is to pursue a buyout, the region must contact the Assistant Commissioner of the National Office of Leasing for concurrence.
- Proceed with the agreed-upon course of action
- Report the action and results to the National Office of Leasing mailbox at AskPR@gsa.gov using “Space Relinquishment” in the subject line.

# Space Relinquishment Process



- GSA's Office of Leasing monitors the scope and impact of space relinquishment activity, provides oversight and guidance to GSA regions, and is the point of contact for Central Office involvement. The Office of Leasing consults with the regions on proposed actions, and tracks the results of backfills, outleases and buyouts for program management and reporting purposes.

- Leasing specialists must report all committed or imminent space relinquishments to their regional point of contact for the national Vacant Space team. When an agency has either committed by giving us written notice, or contemplates a space release, the leasing specialist will report it to the regional PoC for the Vacant Space team. See Section 2. Agency Requirements for the data to be reported.

# 2. Agency Requirements

When an agency notifies GSA that it intends to release space back to GSA, the Leasing Specialist must first verify that the requestor has the authority to request the change. The Leasing Specialist should contact the appropriate RAM for verification, if necessary, and refer requestors to their appropriate tenant agency officials if they are not authorized to request changes and obligate the agency. At a minimum, tenant agency must provide the following information :

- Lease number
- Occupancy Agreement (OA) number
- Agency/Bureau names and code
- Usable and rentable square footage to be relinquished
- Usable and rentable square footage before and after relinquishment
- The planned relinquishment date

The Leasing Specialist must report the above information and the date of written notice (if notice is imminent but has not been provided, report the date as “to be determined”) to the regional point of contact person for the national Vacant Space team, which is coordinated by the Portfolio division in Central Office.

As with expansion projects, the client agency’s reduced requirements must be given full consideration, including impact on parking and subsequently documented prior to taking any further action. The Leasing Specialist must understand the agency’s needs and must have received verification of funding necessary for any changes, including alterations to demise and/or make the space marketable, before issuing changes to the lessor. (Refer to Chapter 1, Requirements Development.) Whenever significant changes are needed to reduce the space, GSA may provide space planning services to the agency or contract with the lessor, as long as the agency funding is adequate and designated for this purpose. (Refer to Appendix H for further information regarding parking.)

Whenever an agency notifies GSA that it intends to release space for which the Government does not possess termination rights under the lease, GSA will be responsible for marketing and backfilling the space to future tenants, or buying out of the lease. All decisions should be made with this in mind.

For agency rights to release space including applicable repayment obligations, see the Pricing Desk Guide (PDG) Section 5.3., Return of Space.

# 3. Researching the OA for Agency Cancellation Rights and Obligations

Before accepting returned space from a client agency, the Leasing Specialist must ascertain whether the agency has cancelation rights under its Occupancy Agreement (OA) and has met the required provisions stipulated in PDG Section 5.3. The Leasing Specialist must research the most current OA to determine whether it is cancelable or non-cancelable, and if cancelable, the advance notice period required. The agency's rights with GSA are governed by the OA and national pricing policy. See also the PDG 4th Edition, Chapter 5, parts 1, 2, and 3 for information on cancellations and return of space.

Most OAs relieve an agency from the obligation to pay rent for terminated space starting four months after notifying GSA in writing. The return of space to GSA must comply with the PDG. In October 2011, GSA issued pricing policy guidance requiring a clause in cancelable OAs that the agency be at least 16 months into their occupancy term before they can terminate. Always check the OA to see if this clause is included. Tenant agencies are responsible for reimbursing GSA for unamortized portion of the cost of Tenant Improvements (TIs). Generally, if they relinquish the entire space, they must pay the unamortized amount in lump sum at termination. If they relinquish a portion of the space, they may pay the unamortized amount for the relinquished space by rolling it into the remaining rental payments for the space retained. For additional information on payment options for TI's, see PDG Section 2.5.10. Additionally, the client agency remains liable to pay rent until it has completely removed all personnel and furnishings from the affected space and all work has been completed by GSA or the agency to construct any new demising walls and modification of building systems needed. In some circumstances, accomplishing this may take much longer than 4 months. The Leasing Specialist should advise the client agency of these facts when a longer period is anticipated.

When the agency's occupancy is governed by a non-cancelable OA, GSA still has discretion over whether to allow the client agency to terminate space. Several factors may affect GSA's decision in this situation, including whether:

- The lease may be terminated without consequence or expense to GSA;
- The terminating agency has agreed to cover the estimated cost obligations;
- Another agency desires to backfill the space and the agency vacating the space agrees to pay any rent differential between the backfill tenant and rent the vacating agency was paying not including TIs.

Considering the OA and lease obligations is only the first step in determining whether GSA will accept space back from the client agency. The Lease Contracting Officer must not render a decision on this basis alone.

# 4. Researching the Lease for Termination Rights

## a. Termination Considerations:

Before GSA can terminate space with the lessor, the Lease Contracting Officer must understand the Government's rights and obligations under the lease. Several questions, including the following four questions, must be answered at this point:

- Does GSA possess termination rights under the lease?
- If so, what are the notification requirements for exercising termination rights?
- Is the agency terminating all of the space or a marketable portion of its space?
- If a portion, does GSA possess partial termination rights or full termination rights?

The answers to these questions and results of the Space Relinquishment Decision Tool will help the Lease Contracting Officer determine whether to issue notification of termination or to initiate discussions with the lessor.

Even when GSA has termination rights, before exercising that right, the Leasing Specialist should compare the lease rate and other lease terms and conditions to the local rental market. If GSA has a favorable lease, such as a below-market rate with several years or more remaining and the space is in good condition with a functional layout, then the Leasing specialist should consider backfill opportunities. Compare the all-in costs to house an agency in backfill space versus the cost to house them in new or succeeding occupancy elsewhere. If the overall cost to house an agency in the space that will be released is lower than their other housing alternatives (e.g., a new or succeeding lease), the Leasing Specialist should seriously consider backfilling the space and not terminating the lease. Replacing an outgoing tenant agency with another does not normally void any termination rights of the government.

Use of the Space Relinquishment Decision Tool and analysis is mandatory before a decision is made to backfill, buyout or terminate the lease. Based on user input, the tool projects financial outcomes for backfill, outlease, or buyout and provides decision makers an analytical basis for determining the optimum course of action. Generally, the recommended course of action is the one with the lowest overall cost or highest overall net income to the government.

In situations where GSA has very favorable lease terms relative to market, the tool may indicate there is greater value to the lessor if we vacate the space and the lessor re-lets the space to a replacement tenant. In such situations we may negotiate to terminate at no cost to GSA or to have the lessor pay us to terminate the lease.

## b. Complete Terminations

### Within Termination Rights

The simplest form of termination occurs when the client agency terminates its entire space during the Government's termination rights period. In this circumstance, the Lease Contracting Officer may notify the lessor in writing as prescribed in the terms of the lease and proceed to close out the space just as if the lease had expired. (Refer to Chapter 2, New or Replacing Lease, part 8 for closeout procedures.)

### Without Termination Rights

If the lease does not grant the Government the right to terminate, or if termination rights take effect so far in the future that allowing the lease to run its course would pose an unacceptable financial burden to the Government, the Lease Contracting Officer should consult with a regional asset manager to consider whether legitimate backfill opportunities exist. When looking for backfill opportunities consider the security level of the remaining tenants and the prospective tenants in making the decision.

At the same time, the Lease Contracting Officer must complete the Space Relinquishment Decision tool. Based on the results of the tool, if backfilling the space with a federal tenant would appear to be the most financially advantageous course of action, but there are no prospective tenants, then the Lease Contracting Officer must prepare a summary of their analysis and recommendation, including a copy of the dashboard results from the tool, and share it with their supervisor and Leasing Director. See section 8 of this chapter for more detailed information on elements to address in the summary of their analysis and recommendation.

If the recommendation is to pursue a buyout, the Lease Contracting Officer may contact the lessor to indicate the Government's desire to terminate the lease. However, prior to initiating any buyout negotiations with the lessor, the region must contact the Assistant Commissioner of the National Office of Leasing for concurrence. In many situations, the lessor will request GSA to make some form of lump-sum payment known as a buyout, for this right.

Collaboration with the Office of Regional Counsel, regional asset management, regional finance staff, and the Lease Contracting Officer's management are essential at this point so that proper budgetary actions are taken before agreeing to terms with the lessor. The Lease Contracting Officer must collaborate with the Budget and Finance offices as to whether it is in the Government's best interest to compensate the lessor in a lump-sum payment or to continue making monthly rent payments. Financial approval on the method of payment must be documented in the file.

The final agreement will be established through a lease amendment, reviewed and approved by Office of Regional Counsel. Subsequently, the lease will be closed out after the space is vacated in accordance with the terms of the buyout agreement.

## c. Partial Terminations

### Within Termination Rights

When the client agency terminates only a portion of its space (or its entire space when the agency is housed in a multitenant lease), where the lease provides partial termination rights, the Leasing Specialist must notify the lessor in writing as provided in the lease, supply a floor plan that clearly delineates the space being terminated, and request a cost proposal from the lessor if any work will be required to subdivide the space. The costs must be documented in the lease through an LA. Obtain floor plans that clearly show the remaining premises.

**Provisions for Remaining Space**

The Leasing Specialist should remind the lessor that the space remaining under the lease will be subject to the surviving lease provisions and verify that the physical space and building systems are altered accordingly.

If there is an outstanding TI balance after an agency has released a portion of its space under an OA, the unamortized balance of the TI may be amortized over the remaining space and the remaining term in the OA as described in PDG, section 5.3.5.

## d. Documentation

GSA leasing specialists must include documentation described in section 7.c. of this chapter in G-Rex and in Tab 7 of the Lease File Checklist.

## e. Design and Lease Commencement

See Chapter 2, New or Replacing Lease, or Chapter 8, Alterations in Leased Space, for details on design and configuration of occupied space.

If GSA excess furniture services are desired, the RAM can assist with arrangements.

See Chapter 2, New or Replacing Lease, part 8, which provides details on lease commencement and closeout activities.

# 5. Marketability of Space

## a. Evaluating Space Marketability

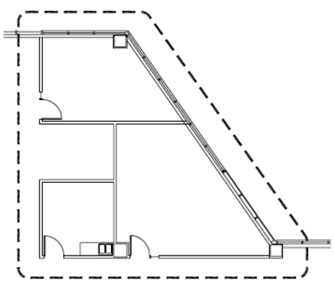
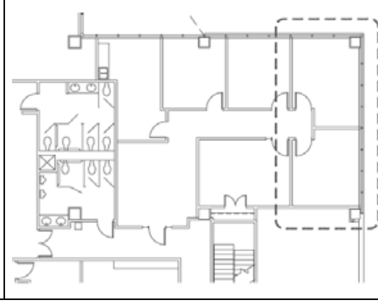
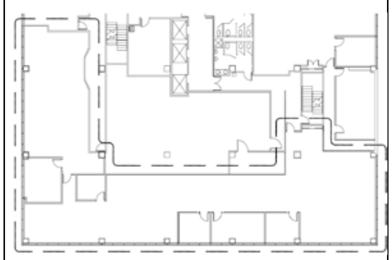
GSA has no obligation to accept the client agency's release of space that is not in a marketable configuration and condition. It is unreasonable for GSA to accept, and in turn expect a lessor to accept, space that is not marketable. Therefore, once the Leasing Specialist determines that the agency has cancellation rights in its OA, GSA's next responsibility is to determine the space's marketability as defined in the 4$^{th}$ Ed. Pricing Desk Guide, 5.3.2.

The following are examples of situations where the marketability of space is questionable:

- Small spaces, single offices, or closets;
- Inaccessible space at the back of the agency's other space;
- Oddly configured space that makes a tenant's layout difficult or impossible;
- Long, narrow spaces;
- Corridors; and
- Any other space that would be difficult to backfill as a result of the characteristics of the space itself, not the finishes or building location.

The figure below illustrates some of these problematic spaces.

*Nonmarketable Spaces*

| *Unusually Shaped Smaller Spaces* | *Inaccessible Space* | *Long, Narrow, and Oddly Configured Space* |
|---|---|---|
|  |  |  |

If an agency is the sole occupant of a building or occupies a large block of space on multiple floors, making partially returned space viable may mean requiring the agency to consolidate operations on fewer floors so that the partially returned space is not comprised of numerous small (but otherwise viable) spaces, which unduly limit GSA's opportunities for backfill or the Lessor's willingness to take back the space. The agency must bear the costs of alterations and moving necessary to perform this work.

## b. Marketability Determination

If the Lease Contracting Officer and regional asset manager determine the space is not marketable, GSA may suggest ways to reconfigure the space to make it marketable and advise the agency of the estimated cost of alterations required to relinquish the space. Once these discussions are concluded with the agency and the Lease Contracting Officer determines whether the resulting space is marketable, the Leasing Specialist must notify the agency of the decision in writing and, provide a replacement OA indicating the new reduced square footage after the work is complete. If the space cannot be made marketable in a configuration acceptable to both GSA and the client agency, the Leasing Specialist should provide the determination that the space is not marketable to the agency in writing, and the project may be closed out in the appropriate systems. If the OA is cancelable, PBS may not refuse an agency release of marketable space just because there may not be a suitable tenant and the space might remain vacant.

> **Marketable Space**
>
> Larger, squarer, more accessible spaces with windows are more easily marketable for backfill. The Leasing Specialist should keep this in mind when discussing marketable space with the agency.

# 6. Assembling Project Management Team

The Leasing Specialist or project manager should assemble a project management team as shown below.  Optional members will be based on the size and complexity of the project.

- Regional Office of Portfolio Management
- Regional Office of Leasing
- Regional subject matter expert (SME) for Space Relinquishment Decision tool
- Regional Office of Facilities Management and Services Programs
- Office of Client Solutions
- Regional Counsel's office
- Space Planning (optional)
- Design and Construction (optional)

# 7. Space Relinquishment Decision Tool

The Leasing Specialist must use the Space Relinquishment Decision tool to estimate financial outcomes of various courses of action, prepare a summary of the situation including the results of the analysis tool and their recommendation, share their summary with their leasing branch chief and the regional Leasing Director and copy the National Office of Leasing. Before implementation, the plan must be approved by the regional Leasing Director. Circumstances such as high dollar value or political sensitivity may require elevation for review at higher levels within the regional office and Central Office. The Assistant Commissioner for the National Office of Leasing must review and approve buyouts before commencing buyout negotiations with the lessor.

## a. Overview

The Space Relinquishment Decision Tool is a spreadsheet with accompanying instructions and is mandatory to use when an agency has provided written notice of their intent to release of space early or made it known the written notice is imminent. The purpose of the tool is to give decision-makers an analytical basis for financial decisions whether it is in the best interest of the Government to outlease or backfill the vacant space, to buyout the lease, or to continue the monthly payments (less adjustment for vacant premises) until lease expiration. There may also be significant non-financial factors that can impact this decision as well.

The tool analyzes one lease at a time. It relies on factual information from the lease and OA input by the user, and user-generated estimates about market rents, vacancy downtime, retrofit costs and discount rates. For the departing agency, it calculates their upfront costs and net savings (cost avoidance) to relinquish the space. For GSA, it calculates the rent exposure, a range of projected financial outcomes for backfill or sublease, and calculates buyout targets. This enables a comparison of the estimated net income or net loss from a backfill or sublease versus a buyout. The space relinquishment decision tool is designed to show which course of action is estimated to have the lowest overall cost or highest overall net income to the government.

The Space Relinquishment Decision tool template and Instructions can be downloaded from the National Office of Leasing's website. The website also lists the regional subject matter experts (SMEs) trained to use the tool and assist users. The intended audience for the tool includes but is not limited to Lease Contracting Officers (LCOs), leasing specialists, asset managers, appraisers and Customer Account Managers, with support as needed from space planning, construction cost estimating and other professionals.

It is the responsibility of the user, not the SME, to gather the lease and OA information and market data (rental rates, vacancy trends, tenant improvement (TI) costs, etc) for input into the tool. The user must utilize current market data information from Bullseye reports, if available, for the market area. If no Bullseye reports are available for the market, the user must obtain any available market data from such sources as CoStar, Loopnet, REIS, and local brokers and landlords. The SME's role is to walk the user through the input into the tool and help them understand the dashboard results.

## b. Calculating Costs and Projecting Outcomes

Based on users' inputs, the Space Relinquishment Decision tool will calculate the following:

- The financial impact for the departing agency including:
  - Rent (including parking cost, if applicable) from the date of written notice until relinquishment
  - Upfront cost to relinquish space, including unamortized TI, and any unearned concessions from free rent or commission credits
  - The agency's total obligation if they'd stayed
  - The savings or cost avoidance resulting from the relinquishment

Costs for space planning/programming to make the space marketable and moving costs are estimated by the user; the user may require assistance from other business lines to create these cost estimates.

- The financial impact on GSA including:
  - The amount of funds GSA will receive from the agency
  - The amount of future rent GSA is obligated to pay (potential rent exposure)
  - The estimated net income or expense from an outlease or backfill
  - Negotiation objective to establish buyout target range
  - A comparison of projected financial outcomes for backfill/outlease versus buyout

The range of buyout targets is to help the Lease Contracting Officer set negotiation objectives. The concept of a fair and reasonable buyout amount is one that makes up the estimated difference between the value of the government's remaining rent and the value the lessor can achieve without the government's tenancy. The baseline assumption is the lessor will re-rent the space to a replacement tenant at market rates after incurring downtime, retrofit and marketing costs. In situations where GSA has very favorable lease terms relative to market, the tool may indicate there is greater value to the lessor if we vacate the space and they re-rent the space to a replacement tenant, in which case we may negotiate to terminate at no cost to GSA, or negotiate to have the lessor pay us to agree to terminate the lease. An example would be where GSA has a below market rental rate, well-configured space in good condition, and adequate length of lease term remaining.

## c. Summarizing the Analysis and Recommendation

The LCO must prepare a summary of their analysis and recommendation, including a copy of the dashboard results from the tool, and share it with their supervisor and Leasing Director. If the recommendation is to buy out the lease, it must be forwarded to the Assistant Commissioner for the National Office of Leasing for review and approval before commencing buyout negotiations with the lessor. The following documents that support a Lease Amendment must be filed in Tab 7 of the Lease File Checklist:

- Summary of Analysis and Recommendation
  - Basic information about the lease, including location, usable and rentable square footages of the lease currently and the space to be relinquished, original commencement and expiration dates, details of any early termination rights and pre-negotiated adjustment for vacant premises
  - A time line of events including any controversial or politically sensitive circumstances about the release
  - Whether or not the OA is cancelable
  - Marketability of the space

  - Overview and analysis of the rental market conditions used to estimate vacancy downtime, retrofit costs and new rental rates for a backfill or outlease by GSA and for the lessor
  - Efforts to find a backfill or sublease tenant, if applicable
  - Justification for the buyout target, if applicable
  - Determination from Portfolio and /or other sources that no further need exists for space
- Notification to lessor of Government's desire to terminate, if applicable, including action under the Adjustment for Vacated Premises clause or negotiations to reduce services
- Lessor's offer(s) and counteroffers
- Condition Survey report, if appropriate
- Agency concurrence
- Legal Concurrence

Leasing Specialists must place documents related to unsuccessful lease buyout efforts in the “Other” section of the Tab 10 of the Lease File Checklist.

# 8. Looking for Backfill Tenants and Outlease Opportunities

The Lease Contracting Officer must investigate the possibilities of other client agencies backfilling the space and examine the lease, including the General Clauses, with regard to the Government's right to sublet (i.e., outlease) the space or assign the lease to private-sector tenants. Then, the Lease Contracting Officer must use the Space Relinquishment Decision tool to help determine whether backfill or outlease will reduce the Government's financial exposure to paying rent for the vacant space. The Lease Contracting Officer must coordinate backfill and outlease efforts with the asset manager, the region's Outlease program point of contact, and the Office of Client Solutions. Leasing specialists must contact the Outlease Program Office in the Portfolio Analysis Division of the Office of Portfolio Management for assistance in outleasing the leased space to non-Federal tenants. The Outlease program manager in the national Office of Real Property Asset Management (Portfolio) maintains a list of regional Outlease program points of contact, which is available at http://propertydisposal.gsa.gov/ContactUS.

If a determination is made to pursue outleasing, the leasing specialist must complete a Standard Form 118, Report of Excess, which will provide the Outlease Program Office, Office of Portfolio Management, with information they need to pursue outleasing the space and comply with real property disposal policy.

The Outlease Program Office maintains Blanket Purchase Agreements (BPA's) contracts with private sector real estate firms for Real Property Sales and Support Services (RPSSS) that may assist in securing private-sector outlease tenants. The National Outlease Program Office website contains a list of these RPSSS contracts.

Space to be outleased should be offered "as is" to the extent practicable, but when it is not practical (e.g., "as is" space is not competitive with comparable space in the local market) and is judged by the contracting officer (CO) to be in the Government's interest, Government funds can be used for minor refurbishing (such as carpet cleaning or removal, and repainting) or alterations of outleased space.

Alterations constructed by GSA for the sole benefit of the backfill tenant must be paid for by the tenant through a Reimbursable Work Authorization (RWA). The outlease tenant may have GSA construct the alterations and must pay for alterations using an RWA or it may retain its own construction management company; however, all construction drawings and completed alterations must be approved by GSA. For instructions on the preparation of an RWA and the RWA payment information to provide the tenant, see the RWA National Policy Document on the Reimbursable Services page on PBS Insite

Alterations which may benefit both the Government and the outlease tenant, but are judged by the CO to be necessary for the leasing of the space, may be paid for by the Government and the cost may be included in the annual rent over the life of the outlease.

Although leases do not give lessors a right of first refusal to perform alterations, it is typically beneficial to allow lessors to perform the work. In most cases, lessors offer the lowest risk option for performing alterations because of their knowledge of their buildings and systems. Using an outside vendor could result in liability to the Government as a result of any damage or poor workmanship on the part of that vendor. The Office of Regional Counsel should be consulted to address the potential liability when procuring alterations from a source other than the Lessor.

# 9. Reporting the Outcome and Results

After the buyout, backfill or outlease action is completed, the LCO will report the results to the National Office of Leasing using the Results Report Tab in the Space Relinquishment Tool. This information is used to report program results to our internal and external stakeholders. The LCO shall initiate contact with the Director, Program Support Services, National Office of Leasing, or email AskPR@gsa.gov and include “Space Relinquishment” in the subject line.

For a buyout, the GSA National Office of Leasing needs to know what our potential financial exposure was, how much we spent to get relief and the net relief realized. Therefore, the LCO must report the following information to the National Office of Leasing using the Results Report Tab::

- The date of written notice from the agency
- The actual relinquishment date by the agency (date space was turned back to GSA in marketable condition and the agency’s obligation to pay rent stopped)
- The amount of any funds received from the departing agency upon relinquishment, including unamortized TI, unearned concessions, and to make the space marketable
- The amount of rent GSA was due to pay the lessor from the relinquishment date until the lease expiration or early termination right date
- The amount of any funds GSA paid to third parties for alterations, restoration, studies, etc.
- The amount of rent GSA paid to the lessor after the agency stopped paying rent to GSA until the effective date of the lease termination
- The buyout amount paid to the lessor
- The rent relief resulting from the buyout (the amount of rent GSA would have paid from the effective lease termination date through the original lease expiration date or early termination right date if there were no buyout)

Similarly, for a backfill or sublease, GSA National Office of Leasing needs to know what our potential financial exposure was, how much we spent to get relief and the net relief we will realize. Therefore, the LCO must report the following information to the National Office of Leasing using the Results Report Tab:

- The date of written notice from the agency
- The actual relinquishment date by the agency (date space was turned back to GSA in marketable condition and the agency’s obligation to pay rent stopped)
- The amount of any funds received from the departing agency other than rent, for items such as unamortized TI, unearned concessions, or to make the space marketable
- The amount of rent GSA was due to pay the lessor from the relinquishment date until the lease expiration or early termination right date
- The amount of any funds GSA paid to third parties for alterations, restorations, studies, leasing commissions, etc.
- The amount of any funds paid to the lessor to prepare the space for the backfill or sublease tenancy
- The amount of any upfront lump sum payments to GSA from the subtenant, such as for reimbursement for tenant improvements
- The scheduled rent from the backfill or sublease tenant

- The net rent relief (how much rent we are obligated to pay from the relinquishment date through the expiration date, plus how much we spent to get relief, minus the rent and other receipts we received and expect to receive)

There may be additional information needed by the National Office of Leasing  depending on the circumstances of the buyout, backfill or outlease, in which case the office will contact the LCO.

**For questions or comments concerning space relinquishments, please contact the National Office of Leasing by email at AskPR@gsa.gov and include "Space Relinquishment" in the subject line.**